

From: Stefan Kiss <stefanincrocs@yahoo.com>
Sent: Tuesday, February 2, 2010 2:39 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Hello,

I am very concerned about the proposal to increase the margin requirements for Retail Forex, for more than one reason.

First, on the personal level, I have been training for a year to be a trader. I am about to launch my trading business as a corporation.

A new regulation like this would severely limit my ability to grow my trading account.

I am 55 years old, my retirement savings are not going to last a lifetime.

Yet, now after this year of intense study and training I am confident I know how to manage the realities of leverage and loss control. I am confident I can do this and do well.

What alternatives do I have? Even though I am smart and technically skilled, no one is going to hire me at my age.

And, I am not alone...there are likely hundreds of thousands like me in my age group with no employment future....and probably millions of younger Americans who will be unemployed or underemployed for a long time. The jobs shipped to India (tech jobs) or China (manufacturing) are not going to come back.

In response to this, many, many US Citizens are learning to trade. Some are going to do well, if you don't change the regulations. There is an infrastructure being built out now in the educational and brokerage firms, and even the banks, that are preparing to serve this new demand. Please take a look at this. It is not small.

Those people who are suited for the career of trading, allowing themselves to become well prepared, practiced, and trained, will have self created jobs, they will be paying local taxes, and Federal taxes. They won't need unemployment, and they have money to spend in their local economies. Not only that, they can work from home, creating less demand for oil, and less traffic.

(Not everyone will have an aptitude for this work...but many will.)

The use of leverage in the Forex retail market is a beneficial thing to a person with the right skills to use it. It is not like giving a mortgage to someone who has no money. And, it is not the same as the leverage created by the Investment Banks that caused the financial system to almost collapse. It is not the same dynamic, and its scope is very small. Please don't make the

mistake of seeing all leverage as evil. The leverage in the Forex market, if used wisely, allows a well trained individual to create an income for himself, and his family, without relying on the external job market, and without the need to have a million dollars to invest.

BUT, beyond that...there is now an infrastructure being built in the US to serve the retail Forex trader. If you implement the higher margin requirements, first this infrastructure and all the jobs that it is creating, is about to create, and will be creating, and all the tax revenue that goes with the business income, and those jobs, is going to disappear. It will never form.

Instead it will grow outside your jurisdiction. You will be giving all the transaction business to London or Switzerland, or even in the future, to Hong Kong or Singapore. Or Australia or New Zealand....I'm sure they would love to have the business. The only limitation is how they can access the fastest internet backbones.

There are already very good, highly regulated Swiss Forex brokers, more than willing to accept the US customers you would be pushing away. The same for London.

(By the way, London probably has more Forex transactions than the USA in any given day. The US is the second market.)

If the US Forex Retail Trader moves his accounts to London or Zurich, that in turn would force US Retail Forex Brokers, if they wanted to stay in business, to move offshore outside your regulation, taking the jobs with them, and the payroll tax revenue, if not more.

You have a tremendous opportunity here to allow the formation of a new industry in the United States....one where well trained individuals (i.e. "taxpayers") can participate in the truly massive and dynamic world's currency markets, having equal access as the worlds largest banks. This type of access is relatively new...with a new type of Retail Forex Broker building out the infrastructure and creating a base for secure and integrous transactions required by the Forex trader.

Really, I cannot see any positive outcome for our country, if these regulations are implemented.

Actually I would suggest the opposite....keep the margin requirements as they are, and institute college level trainings for a person to enter the self-employed trading profession, so, if they are capable, can compete against the giants with success. The tax system and local economies will thank you.

Thank you.

From: behzad <behzad.bah@gmail.com>
Sent: Tuesday, February 2, 2010 2:46 AM
To: secretary <secretary@CFTC.gov>
Subject: CFTC REGULATION

Dear Sir/Maddam,
I am strongly against new proposal and this strategy would limit our opportunity to be a trader.
I hope that it will not pass.
Sincerely yours

From: Normand Smith <nsmith01@sbcglobal.net>
Sent: Tuesday, February 2, 2010 5:00 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation on Retail Forex

Dear Sirs:

I urge you to reconsider and not change the rate of exchange for the Forex markets from 100:1 to 10:1.

You have already hurt the individual trader and this will further kick those traders from doing business entirely.

I trade from a very small account and the drop in the rate will wipe me out. I speak for those in our Forex user group and I know this is not best for us.

Thank you for your consideration and I am sure if this was proposed by big business and the government; you will not consider the small accounts and convert the change. I pray you do not regulate this change.

Regards,

Norman Smith
281 447 3359 home
281 513 5446 cell
nsmith01@sbcglobal.net

From: T <saferok2000@yahoo.com>
Sent: Tuesday, February 2, 2010 5:07 AM
To: secretary <secretary@CFTC.gov>
Subject: re: proposed new leverage rules in retail forex

Dear Sir

I applaud the long overdue regulation that you are considering for the retail forex market, which I have been personally trading in almost since 2004.

Please reconsider your idea to limit trade leverage to 10-1. For me specifically, this is a problem, as I have a particular short term trading style that requires it (in my case it is 50-1).

This is primary source of income for me, I have spent years as individual learning how to trade in the way that I do.

If you change the leverage rules as planned I will not be able to trade as I have and I will lose this source of income. I would appreciate it if you would consider this.

Please, do not decrease leverage to anything less than 50-1.

sincerely

Anthony D. Perkins
19815 Delano st.
Woodland Hills CA.
91367
saferok2000@yahoo.com

From: Chris Shaw <theview@usa.net>
Sent: Tuesday, February 2, 2010 6:26 AM
To: secretary <secretary@CFTC.gov>
Subject: Industry Filings: Comments on Industry Submissions

The recent CFTC proposed leverage changes are completely wrong for small investors like myself.

I am unemployed, I cannot find work, but survive by trading the Forex Markets. The current leverage offered by FX Brokers affords me enough profits to put food on my table and keep a roof over my head.

If your proposed leverage changes go through, I will then be out of business. I will be forced to live on the streets! I will be forced to receive any and all food stamps. My new home will be a cardboard box in the alley.

Why are you trying to make the small investor poor?

Please leave the leverage alone. These currencies hardly move in price (less than a couple of pennies). Changing the leverage means only banks and financial institutions will be left trading in the Forex Markets. Why is this Administration favoring the banks and not the little guy? The government has given our tax dollars to the banks in the form of TARP money. Where is the little guys TARP money? Why is this Administration all about helping the big, rich banks and making the little guy suffer? Where is our support in this Administration.

Again, please leave alone the current leverage system for the Forex Traders and kill your proposed legislation.

Thanks for listening to me,
Chris

From: Mike Walker <mrwusa@gmail.com>
Sent: Tuesday, February 2, 2010 7:51 AM
To: secretary <secretary@CFTC.gov>
Subject: 'Regulation of Retail Forex' ID number RIN 3038-AC61

David Stawick, Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.,
Washington, DC 20581

Dear David,

Regarding Regulation of Retail Forex" ID number RIN 3038-AC61".

The net effect of this proposed regulation will be to dampen down Retail Forex trading volume to a great extent..

This will in turn lead to pushing valid well established American Retail Forex Companies out of business, and at the same time put a lot people out of work.

Further this proposed regulation also threatens their customers in so much that their account funds are unprotected, leading to possible total loss of deposits held.

The reasons for this proposal seem to stem from the banks fiasco. Ridiculous, when you consider that Retail Forex Companies had absolutely nothing to do with companies like Lehman Bros except to get their market quote feeds from them.

It was not this connection that brought the markets down , but propitiatory trading from Investment banks connected mainly to derivatives.

Come to your senses before it is too late. This proposal is an embarrassment and a disservice to the American people.

Yours truly

Mike Walker

From: djroc <djroc@cox.net>
Sent: Tuesday, February 2, 2010 8:00 AM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail forex

I BELIEVE THE CURRENT REGULATIONS ARE FAIR FOR THE SMALL CAPITAL INVESTOR AND THE
PROPOSED CHANGES WOULD BE UNFAIR. RIN 3038-AC61 DOMENIC ROCCHIO

From: Andy Bisulca <arb56@verizon.net>
Sent: Tuesday, February 2, 2010 9:23 AM
To: secretary <secretary@CFTC.gov>
Cc: Stawick, David <dstawick@CFTC.gov>; Smith, Thomas J. <tsmith@CFTC.gov>; Bauer, Jennifer <JBauer@CFTC.gov>; Penner, William <WPenner@CFTC.gov>; Cummings, Christopher W. <ccummings@CFTC.gov>; Sanchez, Peter <PSanchez@CFTC.gov>
Subject: I STRONGLY OBJECT TO 10-1 LEVERAGE LIMIT IN REGULATION OF RETAIL FOREX PROPOSAL RIN 3038-AC61

Attn : David Stawick, Secretary, CFTC and ALL CFTC policymakers:

As a non-affiliated US-based Retail FX trader, please note for the record that I am **STRONGLY OPPOSED** to the 10-1 leverage limit as proposed in RIN 3038-AC61 relating to the Regulation of Retail Forex.

Counter-Productive Effects

This senseless limit would in NO way protect, aid or benefit me but rather would greatly harm me since this restriction, if passed,

- would require that I submit substantially more margin-funds into non-protected, non-FDIC insured, non-SIPC eligible accounts, actually exposing me to increased risk in the event of bankruptcy of my Forex Broker.
- would NOT divert my business into regulated-Futures trading (as the CFTC is probably hoping), but rather would cause me to seek an unreliable, higher-risk offshore FX broker to trade through, whose practices might be questionable.
- would eliminate one of the greatest benefits of trading Forex : My ability to efficiently deploy my own trading capital in the way that I choose.

Lower FX Volumes Require Far Greater Leverage

FX volatilities are generally substantially lower than in the Equities or Futures market. Therefore, significantly more leverage is required simply to capture equivalent trading opportunities.

Nanny Not Needed

I do not want the CFTC to treat me like a child and dictate how I should trade. While 100-1 leverage is available to me – should I choose it – I am never forced to use it. The bottom line is that OTC Retail Forex trading is NOT Futures trading. Please do not try to treat it as such!

PLEASE IMMEDIATELY STRIKE YOUR PROPOSED 10-1 LEVERAGE LIMITATIONS.

Don't let proposal RIN 3038-AC61 become an expensive lesson in unintended consequences....

Thank you.

Andy Bisulca

From: Kenny <heykenny@gmail.com>
Sent: Tuesday, February 2, 2010 9:40 AM
To: secretary <secretary@CFTC.gov>
Subject: Re: New proposed changes to leverage in the FX Industry

The proposed changes are going to drive away US business. We have choices as customers and will go where the regulation is fair. Changing the leverage to 10:1 isn't realistic or fair for us to do our trading. We can change it to 10:1 now if we want very easily. Please let us take care of our own risk levels and our own trading.

Respectfully,
Unhappy Trader

From: Mary Wilson <meangene38@comcast.net>
Sent: Tuesday, February 2, 2010 9:58 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

The reduction of leverage would be disastrous for our family who is dependent on making extra income to supplement our social security. If this happens then we would have no other choice but to open our account in a foreign country. This would have a trickle down effect and cause loss of jobs for our Brokerage firms that handle thousands of accounts for us with smaller accounts. NO, NO, NO to the reduction of leverage.

Thank you,

Gene Wilson

1995 E Coalton Road Apt 73-101

Superior, Colorado 80027

meangene38@comcast.net

303-507-1183

From: Ron <ron.tone@cox.net>
Sent: Tuesday, February 2, 2010 11:12 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Good Morning David,

I would like to comment on the proposed regulation concerning leverage in retail forex customer accounts. The identification number is RIN 3038-AC61. Because I am an individual investor with a small account, I use the 100:1 leverage to be able to trade in the forex market. If it was changed to 10:1 I would not have sufficient funds to trade. This would force me to use brokerage firms outside the US to be able to trade. I would rather not go outside the US because I trust the firms that are regulated in the US. Please consider how this change would impact all the individual investors in this country.

Thank you,

Ronald Tone
17160 S. Golden Sunrise
Vail, AZ 85641

From: CPTWIZON@aol.com
Sent: Tuesday, February 2, 2010 11:18 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Sirs,

How is de-leveraging the average Forex consumer even remotely helpful? This proposed regulation would result in ten fold rise in margin requirements for every trade, a cost the small investor such as myself cannot bear. The net effect will be to drive a large percentage of people from the market, and create a significant barrier to entry. Those of us who have accepted the responsibility of such leverage and fully understand the risks, should not be penalized for the sake of a regulation that is not needed.

To those of us in the Forex community the repercussions would go far beyond the mere loss of a trading platform. I personally spent two and a half years practice trading and countless hours of program development before even considering live trading. After pulling together the money to start a mini account my first real trades were only four months ago, and while my success has been limited it still holds great promise. To have all that time and effort swept away with one misguided regulation, would be a great disappointment to myself and a great many others.

Please do not enact this regulation.

Sincerely
Andrew Wizon
CptWizon@aol.com

From: Cindy Wahe <wahefam@msn.com>
Sent: Tuesday, February 2, 2010 11:40 AM
To: secretary <secretary@CFTC.gov>
Subject: RE: Regulation of Retail Forex

Dear Sir / Madam:

The note below has been brought to my attention:

The CFTC is making an attempt to reduce the leverage that retail FOREX traders will be able to use in the United States with regulated FOREX brokers. What this would mean for you under the proposed legislation, is that the 100:1 leverage FOREX brokers allow retail customers would be reduced to 10:1. In order to control \$10K (1 lot) in currency, you would have to have \$1K in available margin with your broker. Currently you only have to have \$100. This would be a drastic difference what you would be able to trade from an intraday and longer term time frame.

As a small currency trader I respectfully request that you do not make any changes to the legislation concerning the leverage which is currently available to traders like myself. I personally believe that if you make the proposed change, potentially you will force traders such as myself out of the market or you will send Forex Traders and their funds out of this country as other countries are not changing their leverage for traders in the Forex market. In these economic times, this makes no sense to force a situation which could potentially send American dollars out of the country and doesn't accomplish what this proposed change is trying to accomplish.

Sincerely,

Cynthia Wahe

16732 W 48th Ln
Golden, CO 80403
303.987.0565

Hotmail: Free, trusted and rich email service. [Get it now.](#)

From: Writer2U2@aol.com
Sent: Tuesday, February 2, 2010 12:23 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Please do not lower the leverage on Forex trading to 1:10. That would end the possibility of traders with small accounts to build up their capital because of the sustained commissions and diminished returns. Also, traders in other countries without this restriction would have an advantage over us in the USA.

**Ruth Hasty
2056 Antoine Dr, #129
Houston TX 77055
713 682 3222
writer2u2@aol.com**

From: Johnny Earley <earley_johnny@yahoo.com>
Sent: Tuesday, February 2, 2010 12:28 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Good Day Mr. Secretary. I'm writing you today to just share with you my comments on the latest proposed rule changes in the Forex market involving leverage. First let me start by saying i will not be disrespectful or use any foul language. But I do want to say that I do not like nor agree with the possible change to a 10/1 maximum leverage for retail investors/traders. I've been trading the Forex market for the last 4 years and have come accustom to having 100/1 leverage. I understand that this is being done to protect other individuals who may not have a full understanding of how to protect themselves when using leverage and to ensure safety of the "Lil guy"(retail investor), but at the same time you do have to understand that in trying to protect those who haven't properly educated and prepared themselves by either demo trading or with live experienced over time you are putting those of us who have been trading in these markets for the past three years plus, at a **SERIOUS DIS-JUSTICE & DISADVANTAGE**. We the experienced trader/investor have navigated these markets threw the worst Financial Market since the Great Depression and thou there are a lot of us who have had hard times and not succeeded in our trading, there are those of us who have been profitable also. That is what Capitalism is all about right? And we do live in a capitalist society right??? In asking these question i have to ask one more than I'll let you go. Why do the new proposed rules only target the Lil Guy(retail investor)??? We did not bring the markets to the point they were back in 2007-2008!!! A lot of us retail traders are looking to make back and possibly profit a little from those ruff times. If you allow this proposed rule to take effect your once again putting us the Lil guys at a major disadvantage to the **BIG BOYS!!!!** You have to understand that to a lot of us this sounds like the same "**OLD WALL STREET**" sticking it to those of us who have the short end of the stick already!!!! So for me and a lot of my fellow traders/investors I ask that you **REALLY** reconsider this part of you're regulation reform and to show that I'm not all negative I want to commend you for **ALL** the other parts of the Regulation that you have put together I feel that those are great ideals and much needed!!!! But when it comes to "**RIN 3038-AC61**" **PLEASE** just say **NO!!!!** Thanks 4 your time.

From: ROBERT MILLER <rm1020@verizon.net>
Sent: Tuesday, February 2, 2010 12:42 PM
To: secretary <secretary@CFTC.gov>
Subject: the 10:1 leverage proposal

Dear CFTC staff members, while I welcome your regulatory role in making sure forex brokers are honest, transparent, and have enough operating capital, I disagree with your proposed 10:1 leverage rule. I think that the decision should be left up to the individual forex traders. They are supposed to be using risk capital for their trading anyway. Personally, I have an Oanda account and use 50:1 leverage, which is just right for my risk tolerance. If your proposed 10:1 leverage idea turns into law, that would really ruin what I have been working so hard to achieve. Also, I do not really want to have to open a forex account in a foreign country such as the United Kingdom. Thank you for your consideration. Sincerely, Robert Miller

From: webmaster@steps2freedom.com
Sent: Tuesday, February 2, 2010 12:53 PM
To: secretary <secretary@CFTC.gov>
Subject: NEW CFTC proposed regulations for retail Forex: Leverage Subject to a 10-to-1 limit
Attach: John D. Giusto.vcf

Dear Sir,

I would like to voice my opinion regarding the new CFTC proposal of a 10-1 leverage for Forex trading.

I am against this proposal because it eliminates the little man in the Forex trading arena.

Most small traders do not have the kind of capital needed to trade Forex with the kind of margin that is now being proposed.

I urge you to eliminate this proposal or any future proposals that pushes the little guy out of the trading arena.

Respectfully,
John D. Giusto
Beaufort, S.C.

John D.
GiustoNICKNAME:stockprofits4u
and eagle2

Name: John D. Giusto
Full Name: John D. GiustoNICKNAME:stockprofits4u and eagle2
Organization: DirectMatches
Title: Executive
Comment: A Treasure Chest Of Gems Has Been Discovered!

We have found a treasure chest full of priceless networking gems!

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From: tcd333 <tcd333@gmail.com>
Sent: Tuesday, February 2, 2010 12:58 PM
To: secretary <secretary@CFTC.gov>
Subject: Forex Leverage

Please leave Forex Leverage at 100:1. It will not do what you it to do to change it to 10:1. Traders will just put on more contracts to make up for the difference. You will not hurt the big players, they'll adjust. You are going to hurt the smaller retail traders.

Tom Dernbach
A Smaller Retail Trader

From: ROBERT MILLER <rm1020@verizon.net>
Sent: Tuesday, February 2, 2010 1:38 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear CFTC staff members, While I welcome your regulatory role in making sure forex brokers are honest, transparent, and have enough operating capital, I disagree with your proposed 10:1 leverage rule. I think that the decision should be left up to the individual forex traders. They are supposed to be using risk capital for their trading anyway.. Personally, I have an Oanda account and use 50:1 leverage, which is just right for my risk tolerance. If your proposed 10:1 leverage proposal turns into law, that would really ruin my trading syle, which I have been working on for so long. Also, I do not really want to have to open a forex account in a foreign country such as the U.K. Thank you for your consideration.

Sincerely, Robert Miller 3314 Continental Dr., Missouri City, Texas 77459 Telephone:281-261-0153

From: race@4thebestu.com
Sent: Tuesday, February 2, 2010 1:47 PM
To: secretary <secretary@CFTC.gov>
Subject: 'Regulation of Retail Forex'

In regards to reugulation with the ID number **RIN 3038-AC61**, I would like to express my **disdain for this new regulation which will remove a lot of us little guys from trading in the forex market. Our country should be looking for more ways that allow the public to trade or invest without diverting a maximum amount of funds. This could cause me and many others to find other brokers in other countries just so we have the same opportunity as they have, which has the possibility of putting our capital at more risk with scrupulous brokers. It also will send the jobs from U.S. brokerage companies to other countries weaking our country even further. Please don't allow this to happen**

Thank you
Concerned trader
Arnold Herron

From: Harran Williams <hayron24@gmail.com>
Sent: Tuesday, February 2, 2010 2:53 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

Personally I would rather not see this regulation change from 100:1 to 10:1. Keep it at 100:1 because 1) I like trading forex 2) it pays for my stuff cash and pay for bills, instead of using credit cards for a change 3) I don't have sufficient amount of capital to meet 10:1 trading. I know these are all self-fish sounding reasons but quite frankly it's what keeps me going at times.

From: Vizbaras, Andris <Vizbaras@clm.com>
Sent: Tuesday, February 2, 2010 2:56 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex
Attach: Letter to CFTC re regulation of retail forex_6560915_1.PDF

Please see the attached letter.

Warm regards.

Andris Vizbaras
Carter Ledyard & Milburn LLP
2 Wall Street
New York, New York 10005
212-238-8698
vizbaras@clm.com

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February 2, 2010

VIA EMAIL

Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581
secretary@cftc.gov

Re: Regulation of Retail Forex

Ladies and Gentlemen:

Carter Ledyard & Milburn LLP appreciates the opportunity to submit these comments in response to the Commission's request for public comment on its proposed rules regarding off-exchange retail foreign exchange transactions and intermediaries.¹

The many harsh features of the Proposal that would affect futures commission merchants whose sole business is retail foreign exchange ("RFEDs") -- such as the requirement for RFEDs to guarantee their introducing brokers, the requirement that each introducing broker be exclusive to one RFED, the limit of margin to 10 percent, and the requirement to disclose the ratio of unprofitable customer accounts -- already have provoked an outcry from both dealers and customers. They are right. These types of provisions are unprecedented and paternalistic, and as a practical matter would end a lawful business. Congress authorized the Commission to regulate RFEDs -- not to suffocate them.

The focus of this letter, however, is more narrow: Throughout the Proposal are provisions that would restrict not just RFEDs, but also the foreign exchange activities of futures commission merchants that are primarily or substantially engaged in trading futures contracts on registered exchanges ("FCMs") -- even when dealing only in the types of "rollover" contracts that were held by two federal appellate courts not to be futures contracts. Congress did not grant the Commission general jurisdiction to regulate transactions in rollover foreign exchange contracts by FCMs. The portions of the Proposal that purport to do so would exceed the jurisdiction of the Commission.

¹ Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed. Reg. 3282 (January 20, 2010) (hereinafter, the "Proposing Release").

1. Congress did not grant the Commission general jurisdiction to regulate “rollover” foreign exchange contracts when the dealer is an FCM.

With the decisions in *CFTC v. Zelener*² in 2004 and *CFTC v. Erskine*³ in early 2008, two federal appeals courts drew a sharp distinction between futures contracts, on one hand, and “rollover” contracts on the other. When Congress considered the amendments to the Commodity Exchange Act (the “CEA”) that it enacted with the CFTC Reauthorization Act of 2008, both the Commission and the National Futures Association strenuously appealed to Congress to simply eliminate this distinction with respect to foreign exchange. Congress, however, elected not to do so. The basic grant of jurisdiction over transactions in foreign exchange, in Section 2(c)(2)(B)(i), still is limited to “an agreement, contract, or transaction in foreign currency that . . . is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option.” This was the same language that the courts in *Zelener* and *Erskine* considered and held not to include rollover contracts.

Rather, Congress acted in 2008 to grant the Commission jurisdiction over rollover foreign exchange contracts only on a selective basis:

- Where the transaction is speculative⁴, and the counterparty is an FCM or an RFED, the antifraud provisions of the CEA apply even to a rollover contract. Section 2(c)(2)(C)(ii)(I).
- Where the transaction is speculative, and the counterparty is an RFED (*but not an FCM*), the Congress authorized the Commission to make rules in its judgment that would apply even to a rollover contract. Section 2(c)(2)(C)(ii)(III).

The Commission acknowledges this limit on its jurisdiction in the Proposal: “The Commission . . . retains rulemaking authority with regard to look-alike transactions only where such transactions are offered or entered into by RFEDs.”⁵

2. The Proposal would purport to regulate “rollover” foreign exchange contracts even when the dealer is an FCM.

Even though the CEA did not grant the Commission general jurisdiction to make rules regarding rollover foreign exchange contracts when the counterparty is an FCM, and the Proposal acknowledges this restriction, the Proposal goes on to propose precisely that. All of the most onerous provisions of the Proposal would apply both to RFEDs and FCMs:

² 373 F.3d 861 (7th Cir. 2004), reh’g and reh’g en banc denied, 387 F.3d 624 (7th Cir. 2004)

³ 512 F.3d 309 (6th Cir. 2008)

⁴ In this letter, “speculative” is a shorthand reference to the criteria of CEA Section 2(c)(2)(C)(i)(II)(bb)(BB): A contract that neither results in actual delivery within 2 days nor creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

⁵ Proposal at n. 43

- Regulation 1.10(j) would require an FCM (and not just an RFED) to guarantee the obligations of its introducing brokers relating to retail foreign exchange transactions.
- Regulation 1.10(j)(8) would forbid an introducing broker to an FCM (and not just an RFED) to be a party to more than one guarantee agreement relating to retail foreign exchange transactions.
- Regulation 5.9 would require an FCM (and not just an RFED) to collect a minimum security deposit from each retail foreign exchange customer of at least 10 percent.
- Regulation 5.5(a)(1)(ii) would require an FCM (and not just an RFED) to furnish each retail foreign exchange customer with a written disclosure statement that, among other things, states the percentage of the unprofitable retail foreign exchange accounts maintained by the FCM.

The Proposal does not explain this apparent contradiction, other than to refer to a “stated Congressional intent” in the legislative history “that an entity should not be advantaged or disadvantaged as a result of registering as an RFED instead of an FCM,” with a footnote reference to the Conference Report for the CFTC Reauthorization Act of 2008.⁶ This portion of the Conference Report does not support the proposition for which the Proposal cites it. It immediately follows a discussion of minimum capital requirements and reads,

In addition, to maintaining a minimum of \$20 million in adjusted net capital, the managers expect the Commission to use the rulemaking authority provided under this section to promulgate any other requirements necessary to ensure the financial soundness of RFEDs.

The rules and regulations issued under this section should appropriately address the level of financial risk posed by RFEDs and their operations. To the extent their risk profiles are similar, the managers intend for FCMs and RFEDs to be regulated substantially equivalently in terms of their off-exchange retail foreign currency business. The managers do not intend for the Commission to provide either FCMs or RFEDs with a more favorable regulatory environment over the other or create two significantly different regulatory regimes for similar business models-to the extent the financial risks posed by such operations are similar.⁷

With this context, it is clear that the “stated Congressional intent” is limited to net capital requirements and other requirements relating to the financial soundness of the dealer -- and does not, as the Proposal claims, support the proposition that the Commission has general jurisdiction to regulate FCMs equally with RFEDs in such matters as customer disclosures, minimum deposits or guarantees of introducing brokers. Indeed, it could not, because Congress conspicuously and expressly exempted FCMs from such regulation. Congress expressly exempted any person that is “described in item (aa) through (ff) of subparagraph (B)(i)(II)” from the Commission’s general jurisdiction to regulate “rollover” foreign exchange contracts in CEA

⁶ Proposal at n. 72, citing H.R. Rep. No. 110-627, at 980 (2008)(Conf. Rep.)

⁷ H.R. Rep. No. 110-627, at 980 (2008)(Conf. Rep.)

Section 2(c)(2)(C)(ii)(III), and that exemption clearly applies to an FCM, as a person described in item (cc) (but not an RFED, as a person described in item (gg)).

We appreciate the opportunity to share our views with the Commission on this important topic. Please contact Andris Vizbaras (by telephone at 212-238-8698, or by email at vizbaras@clm.com) if we may provide any additional information.

Sincerely,

Carter Ledyard & Milburn LLP

From: Drenda and Harvey Brown <brownhd6@gmail.com>
Sent: Tuesday, February 2, 2010 3:01 PM
To: secretary <secretary@CFTC.gov>
Cc: Stawick, David <dstawick@CFTC.gov>; Smith, Thomas J. <tsmith@CFTC.gov>; Bauer, Jennifer <JBauer@CFTC.gov>; Penner, William <WPenner@CFTC.gov>; Cummings, Christopher W. <ccummings@CFTC.gov>; Sanchez, Peter <PSanchez@CFTC.gov>
Subject: STRONGLY OBJECT TO 10-1 LEVERAGE LIMIT IN REGULATION OF RETAIL FOREX PROPOSAL RIN 3038-AC61

Attn : David Stawick, Secretary, CFTC
and ALL CFTC policymakers:

As a non-affiliated US-based Retail FX trader, please note for the record that I am STRONGLY OPPOSED to the 10-1 leverage limit as proposed in RIN 3038-AC61 relating to the Regulation of Retail Forex.

Counter-productive effects

This senseless limit would in NO way protect, aid or benefit me but rather would greatly harm me since this restriction, if passed,

- would require that I submit substantially more margin-funds into non-protected, non-FDIC insured, non-SIPC eligible accounts, actually exposing me to increased risk in the event of bankruptcy of my Forex Broker.
- would NOT divert my business into regulated-Futures trading (as the CFTC is probably hoping), but rather would cause me to seek an unreliable, higher-risk offshore FX broker to trade through, whose practices might be questionable.
- would eliminate one of the greatest benefits of trading Forex : My ability to efficiently deploy my own trading capital in the way that I choose.

Lower FX vols require far greater leverage

FX volatilities are generally substantially lower than in the Equities or Futures market. Therefore, significantly more leverage is required simply to capture equivalent trading opportunities.

I do not want the CFTC to treat me like a child and dictate how I should trade. While 100-1 leverage is available to me - should I choose it - I am never forced to use it.

The bottom line is that OTC Retail Forex trading is NOT Futures trading. Please do not try to treat it as such!

PLEASE IMMEDIATELY STRIKE YOUR PROPOSED 10-1 LEVERAGE LIMITATIONS.

Don't let proposal RIN 3038-AC61 become an expensive lesson in unintended consequences....

Thank you.
Harvey Brown

From: rod springer <rodspringer2002@yahoo.com>
Sent: Tuesday, February 2, 2010 3:09 PM
To: secretary <secretary@CFTC.gov>
Subject: In regards to proposed leverage change

To Whom This May Concern;

This Proposed Leverage change would be very, very devastating to the average investor. It would actually eliminate this class of investor, which would be the entire Middle Class! If this needs to be done, please restrict the banks, in order to secure our deposits, but don't restrict the average investor. Thank You for your cooperation, it is much appreciated. Rod Springer.

From: Tracy Terrell <gprinvestments@yahoo.com>
Sent: Tuesday, February 2, 2010 3:17 PM
To: secretary <secretary@CFTC.gov>
Subject: In response to leverage change

To who this may concern;

In Regards to your proposed leverage change;;

This change would be very devastating to the average investor. It would eliminate this class of investor, which would be the entire Middle Class! If this change must be done, please restrict our large financial institutions in order to secure our deposits, but don't punish the average investor. Thank You for your cooperation, it is much appreciated. Tracy Terrell

From: Connor, Phil <pconnor@valdeseng.com>
Sent: Tuesday, February 2, 2010 3:41 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Concerning the proposed regulations in retail forex to limit the amount of leverage available to traders at levels of 10:1 (ref. **RIN 3038-AC61**),

What is wrong with you people?

Yes - promulgate better, meaningful reforms and regulations to prevent fraud and scams by brokers (which you will likely not do) and leave the retail trader alone when it comes to how much leverage he or she may wish to use. This is (and should remain) the individual's choice and decision as a trader responsible for one's own decisions.

We are not fooled. The CFTC, the SEC, government in general, is so thoroughly compromised that you do not serve the public, only powerful, vested interests.

Respectfully,

Phil Connor

From: Jonathon Jones <jonathon.a.jones@gmail.com>
Sent: Tuesday, February 2, 2010 3:49 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Re:RIN 3038-AC61

Dear Sirs,

I believe that all traders should have the right to choose the amount of leverage that is appropriate for his/her risk appetite, and that this basic principle of 'choice' is being threatened by the proposed CFTC regulations. Please don't change the current leverage to a 10-to-1 limitation. All traders should have the right to choose the amount of leverage that is appropriate for their risk appetite, regardless of being a company or an individual investor. Free market and capitalism dictates that the investor chooses how much leverage is appropriate for them, with the obvious responsibilities attached to the leverage the investor chooses. Furthermore, if current amounts of leverage requirements were restricted to the proposed levels, this would not only further stifle economic recovery, but also stifle future opportunities for economic growth, for both investors and the free market.

I honestly believe that most investors are well educated and certainly know the risks involved with leverage investing. Investors and the free market don't need "big brother constantly breathing down their neck dictating to them what is best for them. The addage of teaching people, or in this case investors, sound investing principles and then letting the educated investors govern themselves certainly applies.

Respectfully,

Jonathon Jones

From: Steven Kollias <stevenkollias@yahoo.com>
Sent: Tuesday, February 2, 2010 3:54 PM
To: secretary <secretary@CFTC.gov>
Subject: proposed CFTC regulations.

I believe that I should have the right to choose the amount of leverage that is appropriate for my risk appetite.

DO NOT CHANGE IT.

Steven Kollias
Florida

From: Steven Kollias <stevenkollias@yahoo.com>
Sent: Tuesday, February 2, 2010 3:55 PM
To: secretary <secretary@CFTC.gov>
Subject: 'Regulation of Retail Forex'

DO NOT CHANGE IT.

From: crystwat@aol.com
Sent: Tuesday, February 2, 2010 5:00 PM
To: secretary <secretary@CFTC.gov>
Subject: Public Comment Form

Below is the result of your feedback form. It was submitted by
(crystwat@aol.com) on Tuesday, February 02, 2010 at 16:59:57

commenter_subject: Regulation of Retail Forex

commenter_frdate: January 20, 2010

commenter_frpage: Page 3281-3330

commenter_comments: I want to vociferously express my opposition to the
proposed rule changes raising margin requirements
from 100:1 to 10:1. The ability of individual
investors, i.e., retail investors, the small guy,
from actively participating in the financial
markets is types of unnecessary regulations that
will effectively freeze him out. One of the major
lessons learned from the latest financial collapse
is that individuals must take more a more control
over their financial matters. Leaving it just to
the institutional class leaves people helpless in
controlling their own financial future. I hope that
this proposal is effectively squashed and that the
Commission focuses their efforts in encouraging
investors to take control off their own financial
destiny and not take actions that discourage this
objective.

Best regards

commenter_name: Thomas J. White

commenter_address1: 405 C Dedham St.

commenter_city: Newton

commenter_state: MA

commenter_zip: 02459

commenter_phone: (617) 417-8904

From: Jason Edmiston <jfe@uoregon.edu>
Sent: Tuesday, February 2, 2010 5:04 PM
To: secretary <secretary@CFTC.gov>
Subject: Comments on leverage proposal.

The leverage limits that are proposed are too extreme, there are legitimate trading strategies where retail customers would use leverage in excess of 10:1. I suggest finding a middle ground such as 50:1.

-Jason Edmiston

From: Stephen Brudno <stevebbdd@yahoo.com>
Sent: Tuesday, February 2, 2010 5:25 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail forex

RIN 3038-AC61

Dear Sir

I am a retail Forex trader using a small \$5000 account. As a beginner, I am trading 1 minilot, with a 10 pip stop loss. I am also 65 years old and am looking to supplement my social security income. I physically can't work at a regular job, if there were any jobs available. I don't have \$50K to put into an account to earn the equivalent of savings bank interest.

Your proposed regulation sounds like another political stunt. with an ulterior motive

But, if you actually are trying to protect the retail trader, then here's a simple way to do that:

Just require that all brokers offer Micro contracts (10 cents per point) as well as the usual mini contracts (\$1 per point) and the standard contract (\$10 per point).

Steve

From: lee cowell <leewac@yahoo.com>
Sent: Tuesday, February 2, 2010 5:44 PM
To: secretary <secretary@CFTC.gov>
Cc: Justin LeBlang <justin@mbtrading.com>; Alpari (US), LLC
<Alpari_US_LLC@mail.vresp.com>; Rusty <rlmb692000@yahoo.com>
Subject: Regulation of Retail Forex

To whom this matter concerns...

ID # RIN 3038-AC61

This matter concerns the proposed regulation of limiting maximum leverage on the forex to 10:1. We'd like to know WHO has come up with this preposterous idea and even more importantly, why? Look. If people are so naive that they cannot determine their risk level what business is it of THEIRS to be trading in the first place... and what business is it of YOURS to remove the remaining traders rights to determine their own risk? Thus there has to be another reason (which is probably profit motivated) for people NOT related to the traders themselves.

Regulations on top of more regulations is all we seem to get out of you people. First you remove the right to hedge (there is of course workarounds for that... simply open two accounts) last year and now this! Well we'll just move our accounts to a non CFTC/NFA broker(s) if this is the case (example MIG). Thus there are ALWAYS workarounds to asinine regulations that does NOTHING to *protect* anybody!

Let us ask you something: WHAT is the best method of protecting one's assets in regard to ANY broker, regulated or otherwise? Give up? Well the answer is this... FREQUENT withdrawals. Yep.. take a few days off each month and get your coins atta there.

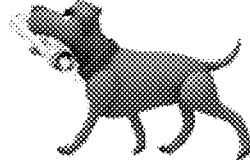
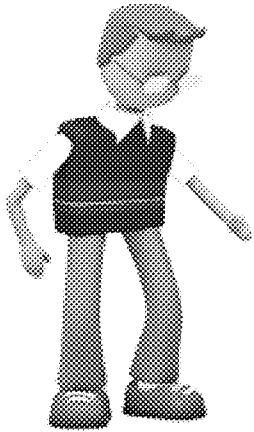
Forex traders need this about as much as attempting to swim the English channel with a concrete block firmly affixed. Pass this thing and brokers such as MIG will be very busy indeed. Thus you will essentially hit the delete key on USA retail forex trading. We'll simply move out of the country (and be forced to *give up* on our favorite USA based brokers). We WILL do what we hafta do to remain in business! This is NOT the only industry being regulated out of business in this country. So how about halting this practice of *squeeze!* Your continued *excuses* for absolutely unwarranted regulations is the ☐protection☐ of john q. While in fact you're only interest is protecting special interest groups (that tend to lose a very small percentage of their total GREEDY profits) without this regulation.

You (and all recipients) have my permission to copy this at will

with no prior approval from me.

Sincerely, Lee Cowell

5616428858 (voice)



From: Robert Drinkard <rbrtdrinkard@yahoo.com>
Sent: Tuesday, February 2, 2010 5:51 PM
To: secretary <secretary@CFTC.gov>
Subject:

Please don't eliminate the samll guy from the trading platforms. I have a 10,000 account and my profit potential will become 10 times more restricted.

Robert Drinkard
Trader
5948 Atteentee Road,
Springfiled, VA 22150

From: David <david.3x3@att.net>
Sent: Tuesday, February 2, 2010 7:46 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex, RIN3038-AC61

To David Stawick
Secretary, Commodity Futures Trading Commission

I am very much opposed to that portion of the new regulation that reduces the leverage offered by forex brokers from 100:1 to 10:1. I think this is just an attempt to stop small investors from making any profits in the forex market. And the influence behind this effort is probably coming from international bankers who want to keep more of the profits from this market for themselves.

If this requirement is imposed on small investors like myself I will do everything I can in the next election to support the Republican Party.

David Prince
Downey, California

From: jeffscudere <scudere@verizon.net>
Sent: Tuesday, February 2, 2010 8:20 PM
To: secretary <secretary@CFTC.gov>
Subject: Please let us trade

My families financial life will take a significant fall in income if this regulation is passed. Please reconsider. Our family has started to make it out of this recession with the trading of forex. After anguished pain of threatened job loss,the leverage now in play made it and continues to make it possible for our pursuit of happiness. Give us small guys a chance at the American dream....Thank you Mr.. Secretary.....Jeff

From: Maxine Yeats <mlyeats@clearwire.net>
Sent: Tuesday, February 2, 2010 9:11 PM
To: secretary <secretary@CFTC.gov>
Subject: re RIN 3038-AC61

I have been trading the Forex market for about 4 years and have taken the time to educate myself and use common sense in protecting my trades through stop losses. I am not wealthy, but use this market to create a small cash flow to add to my Social Security income. Taking away the 100:1 leverage will take away my ability to continue as I don't have a large amount of capital. It is time that you and other regulatory agencies stopped playing "Big Brother" and give the citizens of this country credit for having the intelligence to make their own decisions on taking financial risks. If you really cared about our citizens, you would close the casinos and stop the lotteries. These leave little chance for any real gain.
Maxine Yeats, State of Washington

From: Phil Wenzell <wakebuck@gmail.com>
Sent: Tuesday, February 2, 2010 10:05 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Secretary,

I am writing this email as a retail customer in the forex investment industry. I am a relative newcomer (since last July) and I have done quite well and am pleased with the leverage (100-1) that I receive. This allows a small, individual investor (like me) to be able to participate and I respectfully ask that the Commission does not modify the allowed leverage to a lower amount. Thank you for your service.

Best regards,

Phil Wenzell
4769 Fox Run
Fairborn, Ohio 45324

P.S. I was attracted to the Forex retail investment precisely because of the leverage - if the favorable leverage is removed then I will most likely not be able to participate in this investment vehicle.

From: CG <evian_crystal@yahoo.com>
Sent: Tuesday, February 2, 2010 10:35 PM
To: secretary <secretary@CFTC.gov>
Subject: "Regulation of Retail Forex"--Please hear me out!!!

No! No! No! Please keep the 100 to 1 leverage. Don't kill my career as an independent trader. 2 points I'd like to make:

1. After I got laid off in 2006, I came across the forex market knowing that I don't have to put down a whole lot money and can still make some decent profit thanks to the 100 to 1 leverage. It took me nearly 2 years of learning the currency's market, testing strategies and figuring out rules to follow that yield consistent pips . . . (I admit that when I started out, I had lost some money but that was never due to the leverage. It was due to the fact that I traded against the trend and didn't put a stop loss and let the trade go further and further against me). After all the trials and errors, I'm finally able to get the hang of things. More months than not, I've managed to live off of the mkt to pay all my bills. Active trading is my bread and butter. It suits my personality. I put down \$1000 (1 standard lot), which is 10% of my account value. My profit target is 20-25 pips and I only risk 15 pips! My success rate is around 70-80%.

Because of the leverage, I'm able to live my life. I'm so grateful for the leverage in the forex market because I don't have enough capital to play the stock mkt on an active basis due to the day trading rules. If you take away the leverage, I'd have to have 10 times the trading capital to do what I do now. Where do you want me to get all that money?

2. If you think that decreasing the leverage can protect those "clueless" traders who have no idea what they are doing, I urge you to think again! I don't think you can ever prevent people from committing "financial suicide". Anyone in their right mind know that trading is a risky business and that leverage is a double-edge sword. Unless all they think about is getting rich overnight, which is not being realistic. Allow me to say that those people deserve to lose all their money. Don't blame it on the leverage. It's unfair to take away the leverage just because some people misuse it.

Once again, please keep the 100 to 1 leverage. Don't kill my career as an independent trader. That would be too cruel.

Sincerely,
Claire Gilleland
Union City, CA

From: Rob Hanks <robhanks@srt.com>
Sent: Tuesday, February 2, 2010 11:00 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Hello,

I wish to voice my strong opposition to reduce leverage offered to retail forex traders from 100:1 to 10:1 as proposed in RIN 3038-AC61. I currently make my living trading forex. I trade at 100:1 leverage and manage my risk according to my available risk capital. I fully and completely understand the risk disclosures provided by my brokerage and never take on positions that could mortally wound my account. Reducing leverage to 10:1 will force me to open an account with an overseas brokerage offering higher leverage.

The CFTC is a much needed entity and I do agree with most of the rules set forth but changing the leverage as proposed I feel will do far more harm than good. If this rule is enacted it will cap the potential of many traders and drive business away from U.S. based brokerages thus endangering traders because they will seek out unregulated brokers abroad.

Trading forex can be dangerous if proper risk management is not employed but that should be the job of the trader not the government. Changing leverage to 10:1 will not protect the trader, it will eliminate the trader. A possible solution might be more education on risk management. It doesn't matter if a trader is leveraged at 10,000:1 or 1:1. If they are not of the correct risk management mindset they will still empty their account no matter what leverage is employed. Protect the trader through fraud prevention not leverage reduction. Thank you for your time.

Rob Hanks
219 7th Ave NE
Minot, ND 58703